

Doc. No.: 1778033

Firm No: 06347

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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

HOLLY WISER-CONNOLLY, as
Independent Executor of the Estate of
GLEN R. WISER, Deceased; and
HOLLY WISER-CONNOLLY, as
Independent Executor of the Estate of
ELEANOR M. WISER, Deceased,

Plaintiffs,

-vs-

OSMAN EFENDIC, individually, and
d/b/a **ELAINES EXPRESS, INC.**,

Defendant.

Case No. 08 C 241

OSMAN EFENDIC, Individually and
d/b/a **ELAINES EXPRESS, INC.**,

Judge: Ronald A. Guzman

Counter Plaintiffs,

Magistrate: Geraldine Soat Brown

-vs-

HOLLY WISER-CONNOLLY, as
Independent Executive of the Estate of
GLEN R. WISER, Deceased,

Counter-Defendant.

COUNTERCLAIM FOR CONTRIBUTION

NOW COME Defendants/Counter Plaintiffs, **OSMAN EFENDIC**, and
2038463 ONTARIO, INC., d/b/a **ELAINES EXPRESS**, incorrectly identified
herein as **Elaines Express, Inc.**, by and through one of its attorneys, ROBERT
M. BURKE of JOHNSON & BELL, LTD., and for their contribution Counterclaim
against the Counter Defendant, **HOLLY WISER-CONNOLLY**, as Independent
Executor of the Estate of Glen R. Wiser, Deceased, plead in the alternative to
their Answer, state the following:

1. Plaintiff, Holly Wiser-Connolly, as Independent Administrator of the Estate of Eleanor M. Wiser, Deceased, has filed a Complaint alleging that Eleanor M. Wiser died as the result of a motor vehicle accident, which occurred on or about March 7, 2007 as a result of a motor vehicle collision which allegedly took place at or near the intersection of Goodenow Road and Ashland Avenue in the Township of Crete, County of Will and State of Illinois. A copy of Plaintiff's Complaint is attached hereto, labeled Exhibit "A", and incorporated herein by reference.

2. Defendants, Osman Efendic and 2038463 Ontario, Inc., d/b/a Elaines Express, have filed an Answer to said Complaint denying all the negligent conduct attributed to them and denying that they are liable for Plaintiff's injuries and damages. A copy of Defendants' Answer, is attached hereto, labeled Exhibit "B", and incorporated herein by reference.

3. At the time and place alleged, Glen R. Wiser was operating a motor vehicle in an easterly direction on Goodenow Road at or near its intersection with Ashland Avenue in the Township, County and State aforesaid.

4. At the time and place alleged, Osman Efendic, an employee of 2038463 Ontario, Inc., d/b/a Elaines Express, was operating a motor vehicle in a southerly direction on Ashland Avenue at its intersection with Goodenow Road in the Township, County and State aforesaid.

5. At the time and place alleged, Eleanor M. Wiser was allegedly a passenger in the motor vehicle then and there operated by Glen R. Wiser, Deceased.

6. At and prior to the time of the incident alleged in Plaintiff's Complaint at Law, it was the duty of Glen R. Wiser to exercise reasonable care and caution in the operation of his motor vehicle.

7. While Defendants/Counter Plaintiffs deny that their conduct contributed in any way to cause the injuries, death and damages of Eleanor M. Wiser, in the alternative to those denials, Defendants/Counter Plaintiffs state that Glen R. Wiser caused or contributed to cause the injuries, death and damages of Eleanor M. Wiser in one or more or all of the following ways:

- (a) Carelessly and negligently operated his motor vehicle too fast for conditions;
- (b) Carelessly and negligently entered the intersection of Goodenow Road and Ashland Avenue when it was unsafe to do so;
- (c) Carelessly and negligently failed to slow or stop his motor vehicle to avoid a collision;
- (d) Carelessly and negligently failed to stop his motor vehicle to avoid a collision;
- (e) Carelessly and negligently failed to yield the right-of-way to a motor vehicle in control of the intersection;
- (f) Carelessly and negligently failed to keep a proper lookout;
- (g) Carelessly and negligently failed to keep his motor vehicle under proper control;
- (h) Carelessly and negligently failed to maintain his vehicle with proper and adequate brakes;
- (i) Was otherwise careless and negligent.

8. As a direct and proximate result of the aforesaid careless and negligent acts and/or omissions of Glen R. Wiser, Eleanor M. Wiser allegedly suffered injuries and died.

9. Defendants/Counter Plaintiffs deny and liability to the Plaintiff; however, if the Plaintiff is entitled to any recovery whatsoever, the Defendants/Counter Plaintiffs assert that their liability is far less in degree than that of Holly Wiser-Connolly, as Independent Executor of the Estate of Glen R. Wiser, Deceased.

10. In the alternative to the denials contained in these Defendants/Counter Plaintiffs' Answer, they assert that they are entitled to contribution from Holly Wiser-Connolly, as Independent Executor of the Estate of Glen R. Wiser, Deceased, in an amount equal to the percentage of fault attributable to Glen R. Wiser, which proximately contributed to cause any and all damages recoverable by Holly Wiser-Connolly, as Independent Executor of the Estate of Eleanor M. Wiser, Deceased, all in accordance with the Illinois Contribution Among Joint Tortfeasors' Act.

WHEREFORE, Defendants/Counter Plaintiffs, **OSMAN EFENDIC** and **2038463 ONTARIO, INC., d/b/a ELAINES EXPRESS**, pray that judgment be entered in their favor and against the Counter Defendant, **HOLLY WISER-CONNOLLY**, as Independent Executor of the Estate of Glen R. Wiser, Deceased, in an amount equal to the sum of which would represent the relative degree to which the fault of Glen R. Wiser proximately caused the damages sustained by Holly Wiser-Connolly, as Independent Executor of the Estate of Eleanor M. Wiser, Deceased, plus costs of suit.

Respectfully submitted,

JOHNSON & BELL, LTD.

By:

Robert M. Burke, One of the
Attorneys for Osman Efendic and
2038463 Ontario, Inc., d/b/a
Elaines Express

ROBERT M. BURKE
JOHNSON & BELL, LTD.
Attorney for Defendants
33 West Monroe Street, Suite 2700
Chicago, Illinois 60603
Telephone: (312) 372-0770
Attorney No.: 06347